

MONTANA LEGISLATIVE HISTORY

Chapter 126 19 75

Bill H _____ S 146

Original bill & history ☒ c

H. Committee on Taxation

Hearing Date(s) 3-6 _____ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Taxation

Hearing Date(s) 1-30 ☒ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 *Senate* BILL NO. *146*
 2 INTRODUCED BY *Ronny Cetronis Mary Jorgeson*
 3 *known*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008,
 6 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947,
 7 RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING
 8 SECTION 84-2012, R.C.M. 1947; AND PROVIDING AN EFFECTIVE
 9 DATE."
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 84-2002, R.C.M. 1947, is amended to
 13 read as follows:

14 "84-2002. Persons liable to pay license tax. Every
 15 person who engages in or carries on the business of working
 16 or operating any mine or mining property in the state of
 17 Montana from which gold, silver, copper, lead or any other
 18 metal or metals, or precious or semiprecious gems or stones
 19 of any kind shall be mined, extracted or produced, whether
 20 such person shall carry on such business or engage in such
 21 work or operations as owner, lessee, trustee, possessor,
 22 receiver, or in any other capacity, must for the year 1925,
 23 and each year thereafter, when engaged in or carrying on
 24 such business, work or operations, pay to the state
 25 treasury department of revenue; for the exclusive use and

1 benefit of the state of Montana, a license tax for engaging
 2 in and carrying on such business, work or operation in this
 3 state, ~~and shall pay to such state treasurer for such annual~~
 4 ~~license the taxes hereinafter prescribed~~, provided, however,
 5 that nothing contained in this act shall be construed as
 6 requiring laborers or employees hired or employed by any
 7 person to mine or to work in or about any mine or mining
 8 business or property, ~~to procure such license or~~ to pay such
 9 license taxes, nor shall any discovery work required to be
 10 done in prospecting for or locating any mining claims, or
 11 any annual assessment work, or work required in the
 12 obtaining of title to mining property from the United
 13 States, or required by the laws of the United States or of
 14 this state in order to hold possessory title to any mining
 15 claims, be deemed the engaging in or carrying on of the
 16 business of working or operating any such mine or mining
 17 property."

18 Section 2. Section 84-2004, R.C.M. 1947, is amended to
 19 read as follows:

20 "84-2004. Amount of tax. The annual license tax to be
 21 paid by such person engaged in or carrying on the business
 22 of working or operating any mine or mining property in this
 23 state from which gold, silver, copper, lead or any other
 24 metal or metals, precious or semiprecious gems or stones are
 25 produced, shall be for the production years commencing on or

INTRODUCED BILL

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1),-together-with~~ be an additional
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person,--or--the--manager,~~
 14 ~~superintendent, agent, president or vice-president--of--the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

21 1. The name and address of the owner or lessee of the
 22 mine or mining property.

23 2. The description and location of the mine or mining
 24 property.

25 3. The number of tons of ore or other mineral products

or deposits extracted from the mine or mining property during the period covered by the statement.

4. The name and location of the smelter, mill or reduction works to which such ore has been shipped or sold during the period covered by the statement and such other information as the state department of revenue may require.

5. The gross yield of such ores, mineral products or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead or zinc, or other commercially valuable constituents of said ores or mineral products or deposits, measured by standard units of measurement during the period covered by the statement.

6. The gross value of product in dollars and cents."

Section 4. Section 84-2006, R.C.M. 1947, is amended to read as follows:

"84-2006. Computation and notice of tax. The state department of revenue shall examine each such statement and return filed and determine and ascertain therefrom, and compute and assess the amount of the license tax to be paid by the person making and filing the same, and shall, not later than the first day of June, ~~certify-to-the-state~~
~~treasurer-the-name-of-each-person-subject-to-the-payment--of~~
~~license--taxes--under-the-provisions-of-this-act,--the-amount~~
~~thereof-to-be-paid-by-such-person,--The-said-department-shall~~

~~at-the-same-time~~ mail to each person making and filing such statement and return, a written notice of the amount of the license tax to be paid by each, respectively, that the same is due and payable ~~to-the-state-treasurer,~~ and that it will become delinquent at five o'clock p. m. on the thirtieth day of June, immediately following, and that if the same becomes delinquent a penalty of ten ~~per-centum~~ percent (10%) will be added thereto, and that the whole amount of such license tax, with penalty added, will bear interest at the rate of ~~twelve-per-centum-per-annum~~ one percent (1%) per month or
fraction thereof from the date the same becomes delinquent until paid. If any such person, has sold or otherwise disposed of any of its mine's products at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the state department of revenue shall compute the gross value of such portion of said mine's product, so sold or disposed of substantially below the market price as aforesaid, which gross value shall be based upon the quotations of the price of such mine's product in New York City, at the time such portion of the product was so sold or otherwise disposed of as evidenced by some established authority or market report, such as the Engineering and Mining Journal, of New York, or some other standard publication, giving the market reports for the year covered by such statement. Should there be no

quotation covering any particular product, then the state department of revenue shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 5. Section 84-2007, R.C.M. 1947, is amended to read as follows:

"84-2007. Delinquent taxes--penalty. All license taxes assessed under the provisions of this act shall become delinquent if not paid by five o'clock p. m., on the thirtieth day of June following the date when the same are assessed ~~and--certified--to-the-state-treasurer~~, and as the same become delinquent a penalty of ten ~~per--centum~~ percent ~~(10%)~~ shall be added thereto, and the whole amount of said license tax, with penalty added, shall bear interest at the rate of ~~twelve--per--centum-per-annum~~ one percent (1%) per month or fraction thereof from the date of becoming delinquent until paid."

Section 6. Section 84-2008, R.C.M. 1947, is amended to read as follows:

"84-2008. Procedure in case of failure to file statement. If any person shall fail, refuse or neglect to make and file such statement and return within the time prescribed, the state department of revenue, shall,

immediately after such time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state, and from any other information which the department may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the license tax is to be paid, ~~and--license-issued~~, and shall make and file a statement showing the amount of such gross value of product and shall ascertain and determine and compute and assess the amount of the license taxes due from, and to be paid by such person, and shall immediately ~~certify the--same--to--the--state-treasurer~~ and give notice to such person in the same manner as though such statement had been filed within time, and ~~the-state~~ shall proceed to collect such license tax, adding thereto and collecting therewith, if the same is delinquent, the same penalty and interest as provided for herein for other delinquencies."

Section 7. Section 84-2009, R.C.M. 1947, is amended to read as follows:

"84-2009. False or erroneous statements--investigation concerning. (1) Should the state director of the department of revenue have reason to believe that any statement and return is false, or erroneous in any particular, it may require the person, or if made by a corporation, association

1 or company, the officers thereof, and the employees of any
 2 such person, corporation, association or company, to appear
 3 before the director of revenue or his agent and testify
 4 concerning the same and any statement contained therein, and
 5 may examine all books, records, papers and documents of such
 6 person pertaining to such business, upon giving five days'
 7 written notice to such persons, or officers or employees
 8 thereof having custody of such books, records, papers and
 9 documents, and any person failing, refusing or neglecting to
 10 so appear, or refusing to be sworn or to testify, or
 11 refusing to answer any material question propounded by the
 12 director or any of his employees, or refusing to permit the
 13 director, or his employees to examine such books, records,
 14 papers or documents, or any thereof, pertaining to such
 15 business, shall be deemed guilty of a misdemeanor, and upon
 16 conviction thereof shall be punished by a fine of not more
 17 than one thousand dollars, or by imprisonment in the county
 18 jail for a term not exceeding six months, or by both such
 19 fine and imprisonment. If the director, after hearing such
 20 evidence and after such examination of the books, papers,
 21 documents and records of such person, shall find and
 22 determine that such statement and return is erroneous or
 23 false in any material matter, the director shall change and
 24 correct the same so as to show the true gross value of
 25 product and shall reassess the amount of the license tax due

1 from such person, and may add thereto a penalty of not
 2 exceeding fifty ~~per--centum~~ percent (50%), and shall
 3 thereupon immediately ~~certify-the-amount-of-such-license-tax~~
 4 ~~with-the-penalty-added-thereto-to-the-state--treasurer--and~~
 5 ~~shall--at-the-same-time~~ mail to such person a written notice
 6 of the corrections and changes made in such statement and
 7 return and the amount of the license tax and penalty
 8 ~~certified-to-the-state-treasurer~~ due and payable.

9 (2) The state ~~treasurer~~ department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 twelve-per-centum-per-annum one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
2 mineral products or deposits, measured by standard units of
3 measurement during the period covered by such statement,
4 without any deductions whatsoever for smelting, milling,
5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
7 person, corporation, association or company engaged in the
8 business of smelting, milling, reduction or treatment in any
9 manner of ores extracted or produced by any mine or mining
10 property in the state of Montana shall be open to inspection
11 and examination by the director of revenue or his employees
12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
14 any statement, or to verify, under oath any statement, shall
15 make such statement false in any material respect, or shall
16 verify, under oath, any statement false in any respect or
17 shall fail, neglect or refuse to file any statement required
18 by said state department of revenue or shall refuse to
19 appear before the director of revenue to testify concerning
20 the gross mineral content of any such ore, or shall refuse
21 to allow the director or his employees at any time or place
22 to inspect or examine the books, records, papers and
23 documents of such person, corporation, association or
24 company engaged in the business of smelting, milling,
25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
2 Montana, shall be deemed guilty of a misdemeanor and shall
3 be punished by a fine of not exceeding one thousand dollars
4 (\$1,000), or by imprisonment in the county jail for not
5 exceeding six months, or by both such fine and
6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
8 read as follows:

9 "84-2010. Hearing on determination of value of gross
10 product or amount of tax. Every person whose license tax has
11 been determined and assessed by the state department of
12 revenue under any of the provisions of this act, who shall
13 feel aggrieved by the determination and assessment of the
14 department as to the amount of gross value of product, or as
15 to the amount of the license tax, may, at any time within
16 ten days after the date of notice thereof, required to be
17 given to such person, file with the state tax appeal board a
18 petition for a hearing in which petition must be stated and
19 set forth particularly and specifically the grounds and
20 reasons therefor, and the manner in which the amount of the
21 gross value of product or the amount of the license tax, or
22 both, should be changed or corrected. Upon the filing of
23 such petition, if it appears to the satisfaction of the
24 state tax appeal board therefrom that the department of
25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 ~~to certify-to~~ notify the state ~~treasurer~~ department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. ~~On--such~~ At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof ~~in--the--manner--required--by--section~~
 24 84-2006 to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is certified-to-the-state-treasurer mailed
 9 to such person by the state department of revenue and such
 10 lien may be enforced in the name of the state of Montana, in
 11 the same manner as other liens are enforced at law."

12 Section 10. Section 84-2013, R.C.M. 1947, is amended
 13 to read as follows:

14 "84-2013. Commencing business. If any person shall,
 15 after the first day of January of any year, engage in or
 16 commence the carrying on of the business of working or
 17 operating a mine or mining property in this state, from
 18 which any merchantable metal, precious, and semiprecious
 19 gems and stones are extracted and produced, such person,
 20 must, within sixty (60) days after so engaging in or
 21 commencing to carry on such business, notify ~~both~~ the state
 22 department of revenue ~~and-the-state-treasurer~~ of such fact."

23 Section 11. Section 84-2012, R.C.M. 1947, is repealed.

24 Section 12. This act is effective on passage and
 25 approval.

-End-

SB146

1975 Senate

44th

LEGISLATIVE SESSION

COMMITTEE ON TAXATION

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC AS AMEN DATE
72	1/16	2/1	2/6		2/6			
86	1/16	1/31	1/31			2-1 1/31		
87	1/16	1/30 1/29	2/1			2/1		
91	1/17	2/7	2/7			2/7		
93	1/17	2/6	2/6			2/6		
94	1/17	2/6	2/6	2/6				
96	1/17	2/6	2/6	2/6				
104	1/17	2/13	2/13			2/13		
110	1/17	2/25	3/4		3/4			
111	1/17	2/25	3/4		3/4			
118	1/18	2/7 2/11	2/11			2/11		
127	1/18	1/30	1/30			1/30		
140	2/10	2/20 2/21	2/21			2/21		
144	1/21	1/30	1/30			1/30		
145	1/21	1/30	1/30			1/30		
146	1/21	1/30	1/30			1/30		
147	1/21	1/30	1/30			1/30		

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 30, 1975

The eleventh meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building at 8:15 a.m. by Chairman Watt.

ROLL CALL: Roll Call found all members present with the exception of Senators Healy and Manning, who was excused.

The following witnesses were present:

Tom Stall	Department of Revenue
R. Bruce McGinnis	"
James Madison	"
Chet Blaylock	Senator
Miles Romney	"

Chairman Watt called the meeting to order and introduced Senator Romney, first of the witnesses.

CONSIDERATION OF SENATE BILLS 144, 145, 146 and 147: Sen. Romney asked if all four bills could be considered at once since the amendments were very similar on all. The bills he said were concerned with the procedure for collection of taxes. He presented a number of amendments to the bills, copies of which are attached in committee reports. Sen. Romney then presented Mr. Madison of the Dept. of Rev., who explained further the reason the Department had requested the bills. He stated the state treasurer actually had nothing to do with the collection of the taxes and their change in penalty percentage made the penalty uniform throughout.

Mr. McGinnis, also of the Department, gave testimony on the bills and discussed the amendments as well.

Chairman Watt then asked for other proponents of the bills and there being none, asked for opponents. The meeting was then open for questions by the committee.

A number of questions were asked by the committee concerning the right of a private citizen to protest should such a lien be filed against him, and an amendment was drawn up which would assure that he receive a letter advising him that such lien was being filed. This amendment was to be included with those introduced by the Department.

CONSIDERATION OF SENATE BILL 127: Sen. Blaylock was present earlier in the meeting but asked Mr. Madison to introduce his bill which also dealt with much the same amendments as the above bills.

Jan. 30, 1975

CONSIDERATION OF SENATE BILL 160: Mr. Stall of the Department of Revenue introduced this bill and said it is a simple 'housekeeping' measure and involved only a procedural change in the law.

Following discussion of the bill and the changes it would invoke if passed, the committee moved back to previously heard bills.

DISPOSITION: Sen. Turnage Moved the Adoption of the Amendments introduced by the Department, with the addition of the word 'real' before property, see attached copy; motion carried, on SB144.

Sen. Turnage then Moved SB144 DO PASS AS AMENDED; motion carried, unanimously.

Sen. Towe Moved the Adoption of the Amendments to SB145, with the same additions as above; motion carried.

Sen. Towe Moved SB145 DO PASS AS AMENDED; motion carried unanimously.

Sen. Towe Moved the Adoption of the Amendments to SB146, with amendments the same as above; motion carried.

Sen. Turnage Moved SB146 DO PASS AS AMENDED; motion carried unanimously.

Sen. Towe Moved the Adoption of the Amendments to SB147, with the same additions as above; motion carried.

Sen. Turnage Moved SB147 DO PASS AS AMENDED; motion carried unanimously.

There followed some discussion after which members agreed on disposing of SB127.

Sen. Towe Moved the Adoption of the Amendments to SB127, with amendments the same as above; motion carried.

Sen. Turnage Moved SB127 DO PASS AS AMENDED; motion carried unanimously.

Chairman Watt also said the committee had been asked to determine the necessity of the wording on the bills, in regard to the 'effective date'.

Sen. Turnage Moved to Strike the Words 'Effective Date' From the Titles of All Bills the Committee Acted Upon This Day. This motion was carried.

Sen. Turnage Moved SB160 DO PASS. Motion carried.

There followed some discussion on SB27, just recently referred to this committee. The secretary was instructed to obtain a revised Fiscal Note on this bill. Following this the chairman adjourned the meeting.

DEPARTMENT OF REVENUE

AMENDMENTS TO INTRODUCED SENATE BILL NO. 146:

1. Amend page 14, section 9, line 8.
Strike: "is" & "mailed"
Insert: "or other statement is filed"
2. Amend page 14, section 9, line 9.
Strike: "to such person"
Insert: "with the proper county clerk"
3. Amend page 14, section 9, line 11.
Following: "other"
Insert: "judgment"
4. Amend page 14, section 10, after line 11.
Insert: "Section 10. Procedure for collection of tax. All tax, penalty, and interest due from any person under this act shall be a lien upon any and all property of such person upon the filing of the state Department of Revenue of the duplicate of the statement so made by the state Department of Revenue, or a certified copy of any statement filed by said Department in the office of the county clerk in the county where such property is situated which lien shall have precedence over any other claim, lien or demand thereafter filed and recorded and which may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."
5. Amend page 14, line 12, 23 & 24.
Renumber: "Section 10 to Section 11."
 "Section 11 to Section 12."
 "Section 12 to Section 13."

- ☒ DO PASS AS AMENDED
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 30 1975

MR. PRESIDENT:

TAXATION

We, your committee on.....

SENATE 146
having had under consideration..... Bill No.....

SENATE 146,
Respectfully report as follows: That..... Bill No.....
be amended as follows:

1. Amend title, line 8.
Following: "1947"
Strike: "; AND PROVIDING AN EFFECTIVE DATE"
2. Amend page 14, section 9, line 8.
Following: "due"
Strike: "is" and "mailed"
Insert: "or other statement is filed"
3. Amend page 14, section 9, line 9.
Strike: "to such person"
Insert: "with the proper county clerk"
4. Amend page 14, section 9, line 11.
Following: "other"
Insert: "judgment"

~~DO PASS~~ 5. Amend page 14, following line 11.

Jan: 30, 1975

Insert: "Section 10. There is a new R.C.M. section that reads as follows:

Procedure for collection of tax. All tax, penalty, and interest due from any person under this act shall be a lien upon any and all real property of such person upon the filing of the state department of revenue of the duplicate of the statement so made by the state department of revenue, or a certified copy of any statement filed by said department in the office of the county clerk in the county where such real property is situated which lien shall have precedence over any other claim, lien or demand thereafter filed and recorded and which may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."

6. Amend page 14, lines 24 through 25.
Strike: Section 12 in its entirety.

AND AS SO AMENDED, DO PASS

ROBERT D. WATT

CHAIRMAN

1975
HOUSE

TAXATION COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 145	Amend sec. 84-1402,1404,1405,1406, 1408, 8-1417 pertaining to coal retailers' license tax; repeal sec. 84-1409,1412, 18-1414.	2/11	ROMNEY Cetrone	3/6	Heard 3/6 - BE CONCURRED IN	3/6
SB 146	Amend secs. relating to metalliferous mines license tax; repeal sec. 84-2012; provide effective date.	2/11	ROMNEY Cetrone	3/6	Heard 3/6 - BE CONCURRED IN	3/6
SB 147	Amend 84-1102,1104,1106,1103, relating to cement dealers' license tax; repeal 84-1109 and 84-1111; provide effective date.	2/11	ROMNEY Cetrone	3/6	Heard 3/6 - BE CONCURRED IN	3/6
SB 13	Provide coal severance coal at 25% of value; delete net proceeds tax; taxing gross proceeds as element in property tax system; repealing sections.	2/14	TOWE Cetrone	3/11	Heard 3/13 - subcommittee Halvorson, Aageson, Dassinger 3/27 - AS SO AMENDED BE CONCURRED IN	3/27
SB 86	Coal tax revenue used to research study on alternative energy sources; board to make grants from fund.	2/14	TOWE Colberg	3/12	Heard 3/13 - subcommittee Halvorson, Aageson, Dassinger 3/20 - AS SO AMENDED BE CONCURRED IN	3/20
SB 94	Provide for automatic extension of 1 to 6 mos. for filing of corporation license tax return.		TURNAGE (Request of Dept. of Rev.)	3/7	BE CONCURRED IN	3/7

TAXATION COMMITTEE

March 6, 1975

Chairman Dan Yardley called the meeting to order at 8:00 a.m. in room #108, Capitol Building, Helena. All members were present with the exception of Rep. John Anderson who was excused. Senate Bills 145, 146, 147 were scheduled to be heard.

Senator Miles Romney, District 46, Ravalli County, explained that all three bills were housekeeping bills establishing uniform rates of penalties and interest, and methods of procedure for handling collections. Interest rates and penalties ought to be all the same for the same type of license taxes. All three bills passed the Senate with no opposition.

SENATE BILLS

145

146

147

Mr. James Madison, administrator of miscellaneous taxation, department of revenue, explained that these bills are for the purpose of deletion of reference to the state treasurer since they are now under jurisdiction of the department of revenue. There are 25 different license taxes administered by the miscellaneous tax division and the method of handling is so varied and different it creates several problems and isn't equitable to the taxpayers, so the department is trying to standardize all penalties, rates, collections

Meeting adjourned at 8:10 a.m. and taxation committee went into executive session.

HOUSE BILL 673 - Rep. Harrison Fagg moved that HB 673 DO PASS. Representative Edward Lien made a substitute motion that it be amended to put all revenues into the state general fund. Rep. W. Jay Fabrega moved that HOUSE BILL 673 DO NOT PASS AS AMENDED. Motion carried - DO NOT PASS AS AMENDED. Original motion failed.

HOUSE BILL 674 - Rep. Fagg moved that HB 674 DO PASS. Rep. Fabrega made a substitute motion that HB 674 DO NOT PASS. Rep. Fagg moved that it be amended as follows: On page 1, section 1, line 12, following "(\$.25)" insert "per wheel"; page 1, section 1, lines 12, 13, 14, following "vehicle", strike ", except motor trucks, truck-tractors, and busses required to pay additional fees under Title 32, Chapter 33", and insert "of ten thousand (10,000) GVW or less", and AS SO AMENDED DO PASS. Motion carried, with Reps. Aageson, Fabrega, Halvorson, Thomas, Yardley voting against the motion; and Reps. Dassinger, Bengtson, Fagg, Hager, Johnson, Kemmis, Lien, Teague, Williams voting for the DO PASS motion, so motion carried 9 to 5. So HOUSE BILL 674 AS SO AMENDED DO PASS.

SENATE BILLS 145, 146, 147 - Rep. J. Melvin Williams made a motion that all three bills DO PASS. Motion carried unanimously. Rep. Williams agreed to carry SB 145, 146, 147 on the House floor.

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March 6 75
..... 19.....

BE CONCURRED IN

MR. SPEAKER.....

We, your committee on TAXATION.....

Iaving had under consideration SENATE Bill No. 146.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 84-2002,
84-2004, 84-2005, 84-2006, 84-2007, 84-2008, 84-2009, 84-2010,
84-2011, AND 84-2013, R.C.M. 1947, RELATING TO THE METALLIFEROUS
MINES LICENSE TAX; REPEALING SECTION 84-2012, R.C.M. 1947, AND
PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 146.....

BE CONCURRED IN

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SENATE BILL NO. 146

INTRODUCED BY ROMNEY, CETRONE, MANLEY, JERGESON, CONOVER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 84-2002, 84-2004, 84-2005, 84-2006, 84-2007, 84-2008, 84-2009, 84-2010, 84-2011, AND 84-2013, R.C.M. 1947, RELATING TO THE METALLIFEROUS MINES LICENSE TAX; REPEALING SECTION 84-2012, R.C.M. 1947; ~~AND PROVIDING AN EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-2002, R.C.M. 1947, is amended to read as follows:

"84-2002. Persons liable to pay license tax. Every person who engages in or carries on the business of working or operating any mine or mining property in the state of Montana from which gold, silver, copper, lead or any other metal or metals, or precious or semiprecious gems or stones of any kind shall be mined, extracted or produced, whether such person shall carry on such business or engage in such work or operations as owner, lessee, trustee, possessor, receiver, or in any other capacity, must for the year 1925, and each year thereafter, when engaged in or carrying on such business, work or operations, pay to the state ~~treasurer,~~ department of revenue; for the exclusive use and

benefit of the state of Montana, a license tax for engaging in and carrying on such business, work or operation in this state, ~~and shall pay to such state treasurer for such annual license the taxes hereinafter prescribed,~~ provided, however, that nothing contained in this act shall be construed as requiring laborers or employees hired or employed by any person to mine or to work in or about any mine or mining business or property, ~~to procure such license or~~ to pay such license taxes, nor shall any discovery work required to be done in prospecting for or locating any mining claims, or any annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claims, be deemed the engaging in or carrying on of the business of working or operating any such mine or mining property."

Section 2. Section 84-2004, R.C.M. 1947, is amended to read as follows:

"84-2004. Amount of tax. The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead or any other metal or metals, precious or semiprecious gems or stones are produced, shall be for the production years commencing on or

1 after January 1, 1970 and for each production year
 2 thereafter, ~~one-dollar-(\$1)-together-with~~ be an additional
 3 ~~sum--or~~ amount computed on the gross value of product which
 4 may have been derived by such person from such business,
 5 work or operation within this state during the calendar year
 6 immediately preceding, at the following rates: The rate of
 7 tax shall be fifteen hundredths of one per cent (0.15 of 1%)
 8 of the first one hundred thousand dollars (\$100,000) of the
 9 gross value of the product, five hundred seventy-five
 10 thousandths of one per cent (0.575 of 1%) of the amount by
 11 which such gross value of product exceeds one hundred
 12 thousand dollars (\$100,000) and does not exceed two hundred
 13 and fifty thousand dollars (\$250,000); eighty-six hundredths
 14 of one per cent (0.86 of 1%) of the amount by which such
 15 gross value of product exceeds two hundred and fifty
 16 thousand dollars (\$250,000) and does not exceed four hundred
 17 thousand dollars (\$400,000); one and fifteen hundredths per
 18 cent (1.15%) of the amount by which the gross value of
 19 product exceeds four hundred thousand dollars (\$400,000) and
 20 does not exceed five hundred thousand dollars (\$500,000) and
 21 one and four hundred thirty-eight thousandths per cent
 22 (1.438%) of the amount by which the gross value of product
 23 exceeds five hundred thousand dollars (\$500,000)."

24 Section 3. Section 84-2005, R.C.M. 1947, is amended to
 25 read as follows:

1 "84-2005. Statement of gross value of product. Every
 2 person engaged in or carrying on the business of working or
 3 operating any mine or mining property in this state from
 4 which gold, silver, copper, lead or any other metal or
 5 metals, precious or semiprecious gems or stones are
 6 produced, must, not later than the fifteenth day of April,
 7 in such year when engaged in or carrying on any such
 8 business, work or operation, make out a statement of the
 9 gross value of product from all mines and mining properties
 10 worked or operated by such person during the calendar year
 11 immediately preceding. Such statement shall be in the form
 12 prescribed by the state department of revenue, ~~and--must--be~~
 13 ~~verified--by--the--oath--of--such--person,--or--the--manager,~~
 14 ~~superintendent,--agent,--president--or--vice-president--of--the~~
 15 ~~corporation,--joint--stock--or--other--company--or--syndicate~~ and
 16 must be delivered to the state department of revenue not
 17 later than the fifteenth day of April. The state department
 18 of revenue may grant a reasonable extension of time for
 19 filing statements upon good cause shown therefor. Such
 20 statement shall show the following:

21 1. The name and address of the owner or lessee of the
 22 mine or mining property.

23 2. The description and location of the mine or mining
 24 property.

25 3. The number of tons of ore or other mineral products

1 or deposits extracted from the mine or mining property
2 during the period covered by the statement.

3 4. The name and location of the smelter, mill or
4 reduction works to which such ore has been shipped or sold
5 during the period covered by the statement and such other
6 information as the state department of revenue may require.

7 5. The gross yield of such ores, mineral products or
8 deposits in constituents of commercial value, that is to
9 say, the number of ounces of gold or silver, pounds of
10 copper, lead or zinc, or other commercially valuable
11 constituents of said ores or mineral products or deposits,
12 measured by standard units of measurement during the period
13 covered by the statement.

14 6. The gross value of product in dollars and cents."

15 Section 4. Section 84-2006, R.C.M. 1947, is amended to
16 read as follows:

17 "84-2006. Computation and notice of tax. The state
18 department of revenue shall examine each such statement and
19 return filed and determine and ascertain therefrom, and
20 compute and assess the amount of the license tax to be paid
21 by the person making and filing the same, and shall, not
22 later than the first day of June, ~~certify-to-the-state~~
23 ~~treasurer-the-name-of-each-person-subject-to-the-payment--of~~
24 ~~license--taxes--under-the-provisions-of-this-act--the-amount~~
25 ~~thereof-to-be-paid-by-such-person--The-said-department-shall~~

1 ~~at-the-same-time~~ mail to each person making and filing such
2 statement and return, a written notice of the amount of the
3 license tax to be paid by each, respectively, that the same
4 is due and payable ~~to-the-state-treasurer~~, and that it will
5 become delinquent at five o'clock p. m. on the thirtieth day
6 of June, immediately following, and that if the same becomes
7 delinquent a penalty of ten ~~per-centum~~ percent (10%) will be
8 added thereto, and that the whole amount of such license
9 tax, with penalty added, will bear interest at the rate of
10 ~~twelve-per-centum-per-annum~~ one percent (1%) per month or
11 fraction thereof from the date the same becomes delinquent
12 until paid. If any such person, has sold or otherwise
13 disposed of any of its mine's products at a price
14 substantially below the true market price of such product at
15 the time and place of such sale or disposal, then the state
16 department of revenue shall compute the gross value of such
17 portion of said mine's product, so sold or disposed of
18 substantially below the market price as aforesaid, which
19 gross value shall be based upon the quotations of the price
20 of such mine's product in New York City, at the time such
21 portion of the product was so sold or otherwise disposed of
22 as evidenced by some established authority or market report,
23 such as the Engineering and Mining Journal, of New York, or
24 some other standard publication, giving the market reports
25 for the year covered by such statement. Should there be no

1 quotation covering any particular product, then the state
2 department of revenue shall fix the value of such gross
3 product, or such portion thereof, as shall have been sold or
4 otherwise disposed of at a price substantially below the
5 true market price at the time and place of such sale or
6 disposal in such a manner as may seem to be equitable."

7 Section 5. Section 84-2007, R.C.M. 1947, is amended to
8 read as follows:

9 "84-2007. Delinquent taxes--penalty. All license taxes
10 assessed under the provisions of this act shall become
11 delinquent if not paid by five o'clock p.m., on the
12 thirtieth day of June following the date when the same are
13 assessed ~~and--certified--to-the-state-treasurer~~, and as the
14 same become delinquent a penalty of ten ~~per--centum~~ percent
15 (10%) shall be added thereto, and the whole amount of said
16 license tax, with penalty added, shall bear interest at the
17 rate of ~~twelve--per--centum-per-annum~~ one percent (1%) per
18 month or fraction thereof from the date of becoming
19 delinquent until paid."

20 Section 6. Section 84-2008, R.C.M. 1947, is amended to
21 read as follows:

22 "84-2008. Procedure in case of failure to file
23 statement. If any person shall fail, refuse or neglect to
24 make and file such statement and return within the time
25 prescribed, the state department of revenue, shall,

1 immediately after such time has expired, ascertain and
2 determine as nearly as may be possible from any returns or
3 reports filed with any state or county officer or board
4 under any law of this state, and from any other information
5 which the department may be able to obtain, the total gross
6 value of product of such person from such business during
7 the calendar year immediately preceding the year in which
8 the license tax is to be paid, ~~and--license--issued~~, and shall
9 make and file a statement showing the amount of such gross
10 value of product and shall ascertain and determine and
11 compute and assess the amount of the license taxes due from,
12 and to be paid by such person, and shall immediately ~~certify~~
13 ~~the-same-to-the-state-treasurer~~, and give notice to such
14 person in the same manner as though such statement had been
15 filed within time, and ~~the-state~~ shall proceed to collect
16 such license tax, adding thereto and collecting therewith,
17 if the same is delinquent, the same penalty and interest as
18 provided for herein for other delinquencies."

19 Section 7. Section 84-2009, R.C.M. 1947, is amended to
20 read as follows:

21 "84-2009. False or erroneous statements --
22 investigation concerning. (1) Should the state director of
23 the department of revenue have reason to believe that any
24 statement and return is false, or erroneous in any
25 particular, it may require the person, or if made by a

1 corporation, association or company, the officers thereof,
 2 and the employees of any such person, corporation,
 3 association or company, to appear before the director of
 4 revenue or his agent and testify concerning the same and any
 5 statement contained therein, and may examine all books,
 6 records, papers and documents of such person pertaining to
 7 such business, upon giving five days' written notice to such
 8 persons, or officers or employees thereof having custody of
 9 such books, records, papers and documents, and any person
 10 failing, refusing or neglecting to so appear, or refusing to
 11 be sworn or to testify, or refusing to answer any material
 12 question propounded by the director or any of his employees,
 13 or refusing to permit the director, or his employees to
 14 examine such books, records, papers or documents, or any
 15 thereof, pertaining to such business, shall be deemed guilty
 16 of a misdemeanor, and upon conviction thereof shall be
 17 punished by a fine of not more than one thousand dollars, or
 18 by imprisonment in the county jail for a term not exceeding
 19 six months, or by both such fine and imprisonment. If the
 20 director, after hearing such evidence and after such
 21 examination of the books, papers, documents and records of
 22 such person, shall find and determine that such statement
 23 and return is erroneous or false in any material matter, the
 24 director shall change and correct the same so as to show the
 25 true gross value of product and shall reassess the amount of

1 the license tax due from such person, and may add thereto a
 2 penalty of not exceeding fifty per-centum percent (50%), and
 3 shall thereupon immediately ~~certify--the--amount--of--such~~
 4 ~~license-tax-with-the-penalty--added--thereto--to--the--state~~
 5 ~~treasury--and-shall-at-the-same-time~~ mail to such person a
 6 written notice of the corrections and changes made in such
 7 statement and return and the amount of the license tax and
 8 penalty ~~certified-to-the-state-treasurer~~ due and payable.

9 (2) The state ~~treasurer~~ department of revenue shall
 10 collect such license tax with penalty added, and if the same
 11 has become delinquent he shall also collect interest thereon
 12 from the date of delinquency until paid at the rate of
 13 twelve-per-centum-per-annum one percent (1%) per month or
 14 fraction thereof. Provided further, that in order to verify
 15 such statement and return the state department of revenue
 16 may require any person, corporation, association, or company
 17 engaged in the business of smelting, milling, reduction or
 18 treatment in any manner of ores extracted or produced from
 19 any mine or mining property in the state of Montana to
 20 appear before the director of revenue and testify concerning
 21 the gross mineral content of any such ore, or at the request
 22 of said director to furnish sworn statements showing the
 23 gross yield of such ores, mineral products or deposits in
 24 constituents of commercial value, that is to say, the number
 25 of ounces of gold, silver, pounds of copper, lead or zinc,

1 or other commercially valuable constituents of said ores or
2 mineral products or deposits, measured by standard units of
3 measurement during the period covered by such statement,
4 without any deductions whatsoever for smelting, milling,
5 reduction or treatment of such ores or mineral product.

6 (3) The books, records, papers and documents of such
7 person, corporation, association or company engaged in the
8 business of smelting, milling, reduction or treatment in any
9 manner of ores extracted or produced by any mine or mining
10 property in the state of Montana shall be open to inspection
11 and examination by the director of revenue or his employees
12 at any time or place that the director may designate.

13 (4) If any person required by this act to make or file
14 any statement, or to verify, under oath any statement, shall
15 make such statement false in any material respect, or shall
16 verify, under oath, any statement false in any respect or
17 shall fail, neglect or refuse to file any statement required
18 by said state department of revenue or shall refuse to
19 appear before the director of revenue to testify concerning
20 the gross mineral content of any such ore, or shall refuse
21 to allow the director or his employees at any time or place
22 to inspect or examine the books, records, papers and
23 documents of such person, corporation, association or
24 company engaged in the business of smelting, milling,
25 reduction or treatment in any manner of ores extracted or

1 produced by any mine or mining property in the state of
2 Montana, shall be deemed guilty of a misdemeanor and shall
3 be punished by a fine of not exceeding one thousand dollars
4 (\$1,000), or by imprisonment in the county jail for not
5 exceeding six months, or by both such fine and
6 imprisonment."

7 Section 8. Section 84-2010, R.C.M. 1947, is amended to
8 read as follows:

9 "84-2010. Hearing on determination of value of gross
10 product or amount of tax. Every person whose license tax has
11 been determined and assessed by the state department of
12 revenue under any of the provisions of this act, who shall
13 feel aggrieved by the determination and assessment of the
14 department as to the amount of gross value of product, or as
15 to the amount of the license tax, may, at any time within
16 ten days after the date of notice thereof, required to be
17 given to such person, file with the state tax appeal board a
18 petition for a hearing in which petition must be stated and
19 set forth particularly and specifically the grounds and
20 reasons therefor, and the manner in which the amount of the
21 gross value of product or the amount of the license tax, or
22 both, should be changed or corrected. Upon the filing of
23 such petition, if it appears to the satisfaction of the
24 state tax appeal board therefrom that the department of
25 revenue has erred in any manner in ascertaining and

1 determining the amount of the gross value of product, or the
 2 amount of the license tax, or both, the board shall
 3 immediately correct such error, or errors, and if such
 4 correction shall be in conformity with the request contained
 5 in the petition for a hearing the board shall take no
 6 further steps in connection with such petition, other than
 7 to certify-to notify the state treasurer department of
 8 revenue of the correct amount of the license tax due from
 9 such person after the making of such correction, and
 10 notifying such person thereof. If, from such examination,
 11 it does not appear to the satisfaction of the state tax
 12 appeal board that the department of revenue has erred in any
 13 manner the board shall grant the hearing, fix a day when the
 14 board will take up and hear such matter, and give notice to
 15 such person of such date of hearing as the board may deem
 16 reasonable. On--such At the hearing of such person, any
 17 taxpayer interested, and the department of revenue may
 18 introduce witnesses and present testimony on any material
 19 matters connected with such return and license tax, and
 20 after considering such evidence the board shall fix and
 21 determine the gross value of product, and reassess the
 22 amount of the license tax to be paid by such person, and
 23 give notice thereof in--the--manner--required--by--section
 24 84-2006 to such person and the state department of revenue."

25 Section 9. Section 84-2011, R.C.M. 1947, is amended to

1 read as follows:

2 "84-2011. Lien of tax. The license tax assessed
 3 against any person under this act, together with all
 4 penalties and interest thereon, shall be a lien upon any and
 5 all property owned by such person within this state and used
 6 by such person in connection with such business, which lien
 7 shall attach to such property on the date when the notice of
 8 license tax due is-certified-to-the-state--treasurer mailed
 9 OR OTHER STATEMENT IS FILED to-such-person WITH THE PROPER
 10 COUNTY CLERK by the state department of revenue and such
 11 lien may be enforced in the name of the state of Montana, in
 12 the same manner as other JUDGMENT liens are enforced at
 13 law."

14 SECTION 10. THERE IS A NEW R.C.M. SECTION THAT READS
 15 AS FOLLOWS:

16 PROCEDURE FOR COLLECTION OF TAX. ALL TAX, PENALTY, AND
 17 INTEREST DUE FROM ANY PERSON UNDER THIS ACT SHALL BE A LIEN
 18 UPON ANY AND ALL REAL PROPERTY OF SUCH PERSON UPON THE
 19 FILING OF THE STATE DEPARTMENT OF REVENUE OF THE DUPLICATE
 20 OF THE STATEMENT SO MADE BY THE STATE DEPARTMENT OF REVENUE,
 21 OR A CERTIFIED COPY OF ANY STATEMENT FILED BY SAID
 22 DEPARTMENT IN THE OFFICE OF THE COUNTY CLERK IN THE COUNTY
 23 WHERE SUCH REAL PROPERTY IS SITUATED WHICH LIEN SHALL HAVE
 24 PRECEDENCE OVER ANY OTHER CLAIM, LIEN OR DEMAND THEREAFTER
 25 FILED AND RECORDED AND WHICH MAY BE ENFORCED IN THE NAME OF

1 THE STATE OF MONTANA IN THE SAME MANNER AS JUDGMENT LIENS
2 ARE ENFORCED BY LAW.

3 Section 11. Section 84-2013, R.C.M. 1947, is amended
4 to read as follows:

5 "84-2013. Commencing business. If any person shall,
6 after the first day of January of any year, engage in or
7 commence the carrying on of the business of working or
8 operating a mine or mining property in this state, from
9 which any merchantable metal, precious, and semiprecious
10 gems and stones are extracted and produced, such person,
11 must, within sixty (60) days after so engaging in or
12 commencing to carry on such business, notify both the state
13 department of revenue and the state treasurer of such fact."

14 Section 12. Section 84-2012, R.C.M. 1947, is repealed.

15 ~~Section 12. This act is effective on passage and~~
16 ~~approval.~~

-End-